

OFFICIAL COPY

Fresno, California

March 19, 2002

The City Council met in regular session at the hour of 8:33 a.m. in the Council Chambers, City Hall, on the day above written.

|          |               |                   |
|----------|---------------|-------------------|
| Present: | Tom Boyajian  | Councilmember     |
|          | Brian Calhoun | Councilmember     |
|          | Brad Castillo | Acting President  |
|          | Jerry Duncan  | Councilmember     |
|          | Sal Quintero  | Councilmember     |
|          | Dan Ronquillo | Councilmember     |
|          | Henry Perea   | Council President |

Dan Hobbs, City Manager  
Jesse Avila, Assistant City Attorney  
Hilda Cantu Montoy, City Attorney  
Becky Klisch, City Clerk  
Yolanda Salazar, Assistant City Clerk

Reverend Ara Guekguezian, Pilgrim Armenian Church, gave the invocation, and student Cameron Gee led the Pledge of Allegiance to the Flag.

Councilmember Duncan commented briefly on his recent trip to New York with Firefighters and Police Officers, noted the visit to Ground Zero and the St. Patrick's Day Parade was the most remarkable experience of his life and the people of New York opened up their hearts to everyone, and stated he wished everyone could have the opportunity to visit Ground Zero as the size of the carnage was incomprehensible.

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PROCLAMATION OF TORREON DAY AND EXCHANGE OF GIFTS BETWEEN THE CITIES - MAYOR AUTRY AND PRESIDENT PEREA

PRESENTATION OF 2<sup>ND</sup> QUARTER STUDENT RECOGNITION AWARDS FOR HIGH SCHOOLS IN DISTRICT 4 - ACTING PRESIDENT CASTILLO

(ADD-ON) PROCLAMATION OF BUSINESS JOURNAL DAY - MAYOR AUTRY

PRESENTATION OF DISTRICT 7 STUDENT RECOGNITION AWARDS - PRESIDENT PEREA

PROCLAMATION OF NATIONAL SAFE PLACE WEEK (2 - 0)

The above proclamations and presentations were read and presented.

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The City Council recessed at 9:26 a.m. and convened in joint session with the Redevelopment Agency.

APPROVE AGENCY MINUTES OF MARCH 12, 2002

On motion of President Perea, seconded by Acting President Castillo, duly carried, RESOLVED, the Agency minutes of March 12, 2002, approved as submitted.

**(“A”) APPROVE THE ANNUAL REPORT OF THE REDEVELOPMENT AGENCY FOR FISCAL YEAR 2000-2001**

Executive Director Fitzpatrick reviewed the issue and staff report as submitted, recommended approval, and advised two additional reports were forthcoming relative to accomplishing the goals and objectives and additional funds for the housing rehabilitation program.

Barbara Hunt, 612 “F” Street, spoke to the issue of housing set aside funds.

Controller Quinto and Chair Duncan responded to questions of Councilmember Calhoun and/or clarified issues relative to whether Ms. Quinto reviewed the report, if she had any comments, if the Macias Group was conducting an audit or secondary audit of the Agency, and what the role of the Controller was over the Redevelopment Agency. A motion and second to approve the report as recommended was made and acted upon after additional discussion.

Mr. Fitzpatrick and City Manager Hobbs clarified issues and responded to questions of Councilmembers Ronquillo, Boyajian and Castillo relative to amount of tax increment generated and comparison with other cities, need for all resources to go to enhancing business parks, the Housing Rehabilitation Program and Ms. Hobbs calling for strategic coordination on the use of funds, the Macias Group being contracted with to verify what the Agency owes to the City, housing set aside program/new districts/99 corridor being online for August 15<sup>th</sup>, if housing set aside funds could be used as incentives for businesses wanting to locate here, Hammer Field including funding, amount of tax increment received from the area, and who made the determination in the past on the amount allocated for clean up, and funding for the Airport Area Revitalization Project. Acting President Castillo stated he wanted to be involved in meetings relative to funding for Hammer Field clean up and the Airport Revitalization Project.

On motion of Councilmember Calhoun, seconded by Chair Duncan, duly carried, RESOLVED, the Annual Report of the Redevelopment Agency of the City of Fresno for Fiscal Year 2002-2001 hereby approved, by the following vote:

|        |   |   |
|--------|---|---|
| Ayes   | : | Boyajian, Calhoun, Castillo, Perea, Quintero, Ronquillo, Duncan |
| Noes   | : | None  |
| Absent | : | None  |

**(“B”) CONSIDER MATTERS RELATING TO VENTURA/FREEWAY 41 STUDY AREA - SUBAREA 1 (OLD ARMENIAN TOWN)**

**1. RESOLUTION NO. 1600 - APPROVING A REPLACEMENT HOUSING PLAN RELATING TO THE PROPOSED PROJECT (AGENCY ACTION)**

2. RECEIVE REPORT ON THE PROPOSED PROJECT AND DIRECT STAFF TO (1) NEGOTIATE A MASTER DEVELOPMENT AGREEMENT (MDA) WITH OLD ARMENIAN TOWN, LLC THAT WILL INCLUDE A MASTER PLAN FOR A MIXED-USE COMMERCIAL DEVELOPMENT; (2) NEGOTIATE WITH THE STATE OF CALIFORNIA, DEPARTMENT OF GENERAL SERVICES, REGARDING THE ACQUISITION OF A SITE FOR THE PROPOSED NEW FIFTH DISTRICT COURT OF APPEALS WITHIN THE SITE, AND (3) BEGIN BEST EFFORTS TO ASSEMBLE THE PROPOSED SITE AND/OR THE COURTHOUSE SITE (AGENCY ACTION)

Chair Duncan stated Vision 2010 was well under way and the momentum was very strong, noted the Fresno Falcons made a business decision Monday (to leave Selland Arena for the new Save Mart Arena) which he stated was a bad business decision as the downtown revitalization movement was going to happen and be successful, and stated the Falcons would have to live with their decision and it was not going to stop anything the City was doing.

Director Fitzpatrick reviewed the issue and the actions being requested of the Agency this date to approve the replacement housing plan and negotiate two agreements for the new Fifth District Court of Appeals, all as contained in the staff report as submitted, and requested staff's recommendations be approved.

Barbara Hunt, 612 "F" Street, spoke to the issue.

Councilmember Ronquillo stated this gateway project was a big turning point and a project that was going to put Fresno on the map statewide in terms of downtown revitalization efforts; thanked the developers and the efforts of Judge Ardaiz and the Fifth Appellate Court for looking at the site; stated the Falcons leaving would not have a negative affect as they could be replaced with other entertainment venues; advised he sent a letter to Mr. Welty years ago requesting they consider building a building downtown or something in exchange for all the support the residents of Fresno have given them; stated Fresno State should be encouraged to participate and be a partner with the City and not attempt to, as others have, "suck out the life blood of downtown" and take away from what the City was trying to do and elaborated; and thanked staff for all their efforts and made a motion to approve staff's recommendation, which motion was seconded and later acted upon.

Lengthy discussion ensued. President Perea and Councilmember Calhoun commended staff, Judge Ardaiz, and Gunner & Andros for all their work, patience and efforts, and also those who fought to keep Eaton Plaza a park site, and relative to the Falcons expressed their strong disappointment in their decision to leave (**3 - 0**) with President Perea stating discussions were needed with the Mayor on bringing more business investments downtown. Councilmember Boyajian also commended all involved stating this was a win-win situation, and relative to the Falcons and the new ownership stated he felt they were not greeted with much enthusiasm and explained, adding the City needed to open their arms to those who wanted to come downtown or the loss of entertainment would continue. Mayor Autry stated he disagreed with Councilmember Boyajian and spoke to all the City had done for the Falcons; noted when the Falcons struggled the City embraced them and advised he received a memo from Mr. Davenport which also talked about all the City had done for them; stated he assumed the City and the Falcons had a good working relationship; acknowledged this was a free country and the Falcons had a right to move but called on them to be forthright adding if there was a problem it was never expressed to him; and stated he, too, shared in Council's disappointment and stated the Falcons were moving because they felt they could do better, excuses were not needed, and they did not have to "slap" the City.

Mr. Fitzpatrick and Mr. Frye responded to questions of Councilmember Quintero relative to whether the Agency had done everything necessary to get the Courthouse project going, size of the parking structure including number of floors and stalls, timeline for construction/project ground breaking, if the Fire Station would be relocated, if the GSA had any timelines for the other phases of the project, and if any commitments had been received. Acting President Castillo and Chair Duncan thanked Judge Ardaiz for his patience and the developers for their investment stating these were major projects and part of Vision 2010.

On motion of Councilmember Ronquillo, seconded by Councilmember Calhoun, duly carried, RESOLVED, the above entitled Agency Resolution No. 1600 hereby adopted; and staff directed to: (1) negotiate a Master Development Agreement (“MDA”) with Old Armenian Town LLC (“Master Developer”) that will include a Master Plan for a mixed-use commercial development, (2) negotiate with the State of California, Department of General Services, regarding the acquisition of a 2.05 acre site for the proposed new Fifth District Court of Appeals within the 9.72 acre project area; and (3) begin best efforts to assemble the proposed 9.72 acre site and/or the courthouse site, by the following vote:

|        |   |   |
|--------|---|---|
| Ayes   | : | Boyajian, Calhoun, Castillo. Perea, Quintero, Ronquillo, Duncan |
| Noes   | : | None  |
| Absent | : | None  |

#### AGENCY UNSCHEDULED ORAL COMMUNICATIONS:

APPEARANCE BY BARBARA HUNT REGARDING FRESNO STATE UNIVERSITY AS A FOUNDATION OR MONEY-MAKING BUSINESS, AND THE FRESNO FALCONS DECISION TO LEAVE THE SELLAND ARENA

Appearance made; no action taken.

#### CONTINUED COMMENTS ON THE FRESNO FALCONS DECISION TO LEAVE THE SELLAND ARENA

Councilmember Boyajian clarified to Mayor Autry that his earlier comments related to the previous administration and advised a lot of things were said that would make anyone investing downtown want to leave.

Acting President Castillo stated the City had been a good partner to Fresno State, expressed his strong concern with them relative to all the help the City has given them in the Save Mart Arena project and explained, and continued commenting on Fresno State’s lack of securing funding for a parking structure and their recent request to the City to assist them with charter buses for football games, whereupon City Attorney Montoy advised comments/discussion was going beyond the Brown Act. Acting President Castillo concluded stating he met with Mr. Welty and it was never mentioned that Fresno State was talking about taking the Fresno Falcons.

There was no further discussion.

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The joint bodies recessed the joint meeting at 10:42 a.m. to the joint closed session scheduled for 11:00 a.m.

**RECESS - 10:43 A.M. - 11:53 A.M.** Councilmembers Quintero and Ronquillo arrived later.

On motion of Acting President Castillo, seconded by Councilmember Calhoun, duly carried, RESOLVED, the City Council minutes of March 12, 2002, approved as submitted.

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**APPROVE AGENDA:**

**(11:00 A.M. “A”)** REGULAR CITY COUNCIL CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - CASE NAME: IN RE THE IT GROUP, INC., IN THE BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE, CASE NO. 02-10118

At the direction of the City Attorney, the matter was moved to 2:00 p.m.

On motion of Acting President Castillo, seconded by Councilmember Calhoun, duly carried, RESOLVED, the **AGENDA** hereby approved, by the following vote:

|        |   |  |
|--------|---|--|
| Ayes   | : | Boyajian, Calhoun, Castillo, Duncan, Perea |
| Noes   | : | None                                       |
| Absent | : | Quintero, Ronquillo                        |

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**ADOPT CONSENT CALENDAR:**

**(1-A) \* RESOLUTION NO. 2002-88 - 83<sup>RD</sup>** AMENDMENT TO AAR 01-200 APPROPRIATING \$381,100 IN GRANT FUNDS FROM THE URBAN PARKS AND RECREATION RECOVERY PROGRAM (UPARR) TO REHABILITATE FRANK H. BALL PLAYGROUND

**(1-B) RESOLUTION NO. 2002-89 -** AUTHORIZING SUBMITTAL OF A GRANT PRE-APPLICATION FOR \$500,000 TO THE NATIONAL PARK SERVICE FOR FUNDING UNDER THE URBAN PARK AND RECREATION RECOVERY PROGRAM (UPARR)

**1.** AUTHORIZE THE PARKS AND RECREATION DIRECTOR OR DESIGNEE TO EXECUTE AND SUBMIT ALL DOCUMENTS, INCLUDING, BUT NOT LIMITED TO, APPLICATIONS, AGREEMENTS, AMENDMENTS AND PAYMENT REQUESTS WHICH MIGHT BE NECESSARY FOR THE COMPLETION OF THIS PROJECT

**(1-C)** AWARD A CONTRACT TO STEVE DOVALI CONSTRUCTION OF FRESNO IN THE AMOUNT OF \$121,100 TO CONSTRUCT WELLHEAD IMPROVEMENTS AT PUMP STATION 180

**(1-D) RESOLUTION NO. 2002-90 -** APPROVING THE SUMMARY VACATION OF A PORTION OF “P” STREET BETWEEN TULARE AND KERN STREETS

**(1-E)** APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH HDR ENGINEERING, INC., IN THE AMOUNT OF \$239,000 FOR ON-SITE CONSTRUCTION ENGINEERING SERVICES FOR THE NEW POWER GENERATION FACILITY (PGF) AT THE REGIONAL WASTEWATER RECLAMATION FACILITY; AND AUTHORIZE THE CITY MANAGER OR DESIGNEE TO SIGN THE AGREEMENT ON BEHALF OF THE CITY

**(1-F) RESOLUTION NO. 2002-91 -** INTENT TO ANNEX TRACT NO. 5066 TO THE CITY OF FRESNO COMMUNITY FACILITIES DISTRICT NO. 2, ANNEXATION NO. 35, AND TO AUTHORIZE THE LEVY OF

SPECIAL TAXES, AND SETTING THE PUBLIC HEARING FOR APRIL 23, 2002, AT 10:30 A.M.

**(1-G) APPROVE A MILITARY CONSTRUCTION COOPERATIVE AGREEMENT WITH THE AIR NATIONAL GUARD FOR THE DESIGN OF PLANS AND CONSTRUCTION DOCUMENTS FOR TRAFFIC SIGNAL MODIFICATIONS AND STREET IMPROVEMENTS AT MCKINLEY AVENUE AND FALCON DRIVE**

**(1-H) RESOLUTION NO. 2002-92 - AUTHORIZING THE SUBMITTAL OF GRANT APPLICATIONS TO THE CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD (CIWMB) FOR ALL AVAILABLE GRANTS UNDER THE CALIFORNIA OIL RECYCLING ENHANCEMENT ACT AND ALL AVAILABLE HHW GRANTS UNDER THE CALIFORNIA INTEGRATED WASTE MANAGEMENT ACT FOR THE PERIOD JUNE 30, 2002, TO JUNE 30, 2005**

**(1-J) RESOLUTION NO. 2002-93 - PROVIDING CONTINUATION OF PAYMENT OF CITY'S PORTION OF HEALTH AND WELFARE PREMIUMS FOR EMPLOYEES SERVING IN ACTIVE DUTY FOR OPERATION ENDURING FREEDOM**

**1. DIRECT LABOR RELATIONS MANAGER TO EXTEND THE SIDE LETTER OF AGREEMENT WITH THE EMPLOYEE ORGANIZATIONS**

On motion of Acting President Castillo, seconded by Councilmember Duncan, duly carried, **RESOLVED**, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

|        |   |  |
|--------|---|--|
| Ayes   | : | Boyajian, Calhoun, Castillo, Duncan, Perea |
| Noes   | : | None                                       |
| Absent | : | Quintero, Ronquillo                        |

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**(9:30 A.M.) \* RESOLUTION NO. 2002-94 - 87<sup>TH</sup> AMENDMENT TO AAR 01-200 APPROVING THE TRANSFER OF \$150,000 IN MATCHING FUNDS FROM THE MAYOR'S YOUTH SERVICES CONTINGENCY FOR A JUNIOR GOLF LEARNING FACILITY**

Councilmember Duncan made a motion to adopt the resolution and Parks and Recreation Director Primavera gave a brief overview of the issue as contained in the staff report as submitted. Councilmembers Quintero and Ronquillo arrived at 10:55 a.m. Mr. Harris of the Fresno Metropolitan Flood Control District (FMFCD) spoke to the relationship of the Junior Golf Association with the FMFCD, and Mayor Autry spoke in support of the issue stating this was a meaningful investment in the people who need it most: seniors, handicapped and at-risk youth, and was a statement that the City of Fresno cared. The motion was seconded and later acted upon.

Mr. Primavera and Conrad Nilmeier responded to questions and concerns of Councilmember Calhoun relative to the funding procedure, if the matching funds were a one-time investment, what the City was getting for its \$150,000 contribution, what the facility would entail, who would operate the facility, operating costs, who the target users would be, if anyone would be excluded from using the facility, and if enough information had been received by staff.

Councilmember Calhoun stated he did not have enough information and he believed in first and second readings, and made a motion to table the matter 2 weeks (which was subsequently changed to 3 weeks since there is no Council

meeting on April 2<sup>nd</sup>) for a more detailed report back from staff. Brief discussion ensued on tabling the motion one week or three weeks and if escrow would be affected with a delay.

A motion of Councilmember Calhoun, seconded by Acting President Castillo, to table the matter three weeks to April 9<sup>th</sup> for a more-detailed report back from staff failed, by the following vote:

|        |   |  |
|--------|---|--|
| Ayes   | : | Calhoun, Castillo                            |
| Noes   | : | Boyajian, Duncan, Quintero, Ronquillo, Perea |
| Absent | : | None   |

Councilmember Ronquillo spoke to the past improvement/successes in the area stating good things followed good things, and expressed his support stating \$150,000 was not that much and this was a great opportunity and investment in youth who would be integrating with positive adults learning the right message and lessons.

**(11:00 A.M.) CLOSED SESSION:**

**(A) REGULAR CITY COUNCIL CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - CASE NAME: IN RE THE IT GROUP, INC., IN THE BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE, CASE NO. 02-10118**

**(B) JOINT CLOSED SESSION WITH THE REDEVELOPMENT AGENCY: CONFERENCE WITH LEGAL COUNSEL -DECIDING WHETHER TO INITIATE LITIGATION -CASE NAME: REDEVELOPMENT AGENCY V. EMMANUEL B. DAVID, OFELIA DAVID AND MARLENE Z. ROBERTSON, ET AL.**

**(C) JOINT CLOSED SESSION WITH THE REDEVELOPMENT AGENCY: CONFERENCE WITH REAL PROPERTY NEGOTIATORS:**

**PROPERTY: ONE PARCEL - APN 467-154-13 (“A” STREET BETWEEN FRESNO AND MERCED STREETS)**

**AGENCY NEGOTIATORS: DAN FITZPATRICK, MARLENE MURPHEY, JOHN PALMER, LOU STECK**

**NEGOTIATING PARTIES: EMMANUEL B. DAVID, OFELIA DAVID AND MARLENE Z. ROBERTSON**

**UNDER NEGOTIATIONS: INSTRUCTIONS TO NEGOTIATORS WILL CONCERN PRICE AND TERMS OF PAYMENT**

The City Council met in closed session in Room 2125 at the hour of 2:00 p.m. to consider the above matters and reconvened in regular open session at 3:00 p.m.

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**(2:00 P.M.) CONTESTED CONSENT CALENDAR:**

**(1-I) REJECT ALL BIDS FOR THE LIONS DEN SKATE PARK**

Noting the length of time it has taken to get this project and the cost, President Perea questioned if staff had looked at constructing the project internally and if the abilities were available in-house to build the project, with Parks and Recreation Director Primavera and Mr. Owens responding. President Perea stated this was not a criticism but a year plus was a long time to get a project built and he felt the project should be constructed in house if the opportunity was there. City Manager Hobbs spoke to the issue of a portable skateboard park with Mr. Primavera stating staff was looking at that issue.

A motion and second to approve staff’s recommendation was made and acted upon after additional brief discussion with Mr. Primavera responding to questions of Councilmembers Calhoun and Boyajian relative to the rebidding process, lowering licensing requirements, why licenses were limited to Type A in the first place, and the portable skate park in District 4.

On motion of President Perea, seconded by Acting President Castillo, duly carried, RESOLVED, all bids for the Lions Den Skate park hereby rejected because they substantially exceed the funds available for this project, and staff directed to revise the specifications and rebid the project immediately, by the following vote:



Absent : None

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**(3A) \* RESOLUTION NO. 2002-97 - 89<sup>TH</sup> AMENDMENT TO AAR 2001-200 APPROPRIATING \$72,400 FOR THE CITY OF FRESNO'S PORTION OF THE LOCAL AGENCY FORMATION COMMISSION'S (LAFCO'S) OPERATING COSTS**

Acting President Castillo and Councilmember Quintero made the motion and second to adopt the resolution. Councilmember Calhoun stated it was only appropriate that the public know that (1) Council had some major concerns/issues with the change in State law requiring Fresno, as a city, to pay a share of LAFCO's dues to which Fresno has no voting member on the Board, (2) at issue this date was Fresno paying a portion of LAFCO's operating costs or they could literally take the money from other means, and (3) that Council had given direction to the city attorney to take appropriate measures through the legislative process to rectify what Council feels is unfair; and stated Council was moving to see that Fresno had appropriate representation on the LAFCO Board and added he would reluctantly support the resolution but expected to see some major changes one year from now.

President Perea entered into the record a letter from LAFCO dated March 19, 2002, clarifying it was LAFCO requesting the payment and not Fresno County, and relative to the subject issue stated this was the perfect example of taxation without representation and he could not support sending taxpayer dollars to an organization that provided very little service to the city of Fresno or representation that the 400,000+ people of the city deserved.

A motion of Acting President Castillo, seconded by Councilmember Quintero, to adopt the above entitled resolution failed, by the following vote:

|        |   |                                     |
|--------|---|-------------------------------------|
| Ayes   | : | Calhoun Duncan, Ronquillo           |
| Noes   | : | Boyajian, Castillo, Quintero, Perea |
| Absent | : | None                                |

City Attorney Montoy strongly advised Council to reconsider stating although she understood Council's concern her office determined the City did not have a viable lawsuit against LAFCO relative to the lack of representation, advised she was working on a long-term solution and advised of a short-term opportunity for the Mayor to participate due to a position opening up, and added it could only cost the City more if the payment was not authorized.

On motion of Councilmember Boyajian, seconded by Councilmember Ronquillo, duly carried, RESOLVED, reconsideration of the matter hereby approved, by the following vote:

|        |   |  |
|--------|---|--|
| Ayes   | : | Boyajian, Calhoun, Duncan, Quintero, Ronquillo |
| Noes   | : | Castillo, Perea                                |
| Absent | : | None   |

Brief discussion ensued on a mechanism being in place for LAFCO to collect the money whether or not Council authorized the payment, with Ms. Montoy responding to questions. Acting President Castillo urged Council to vote "NO" until information is received on the additional cost that would be incurred if not approved.

On motion of Councilmember Duncan, seconded by Councilmember Calhoun, duly carried, RESOLVED, the above entitled Resolution No. 2002-97 hereby adopted; and the Planning and Development Department authorized to

pay the County of Fresno the amount of \$72,355 in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2002, by the following vote:

|        |   |  |
|--------|---|--|
| Ayes   | : | Boyajian, Calhoun, Duncan, Quintero, Ronquillo |
| Noes   | : | None   |
| Absent | : | Castillo, Perea                                |

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**(3B) RESOLUTION NO. 2002-98 - SUPPORTING THE FRESNO ZOOLOGICAL SOCIETY'S SUBMISSION OF AN APPLICATION FOR GRANT FUNDS FOR THE DR. PAUL CHAFFEE ZOOLOGICAL - ZOOS AND AQUARIUM FACILITIES GRANT PROGRAM, UNDER THE SAFE NEIGHBORHOOD PARKS, CLEAN WATER, CLEAN AIR AND COASTAL PROTECTION BOND ACT OF 2000 (PROPOSITION 12)**

On motion of Councilmember Ronquillo, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Resolution No. 2002-98 hereby adopted, by the following vote:

|        |   |   |
|--------|---|---|
| Ayes   | : | Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea |
| Noes   | : | None  |
| Absent | : | None  |

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**DIRECT STAFF TO PROVIDE A REPORT IN ONE WEEK ON THE AGREED TO COMPLETION DATE OF THE AIRPORT EXPANSION PROJECT AND POSSIBLE LIABILITY WITH SAFETY ISSUES - ACTING PRESIDENT CASTILLO**

Request made, brief discussion ensued, and the matter was set for March 26<sup>th</sup> at 11:00 a.m.

**REQUEST FOR OUTCOME OF MADERA COUNTY BOARD OF SUPERVISORS MEETING HELD THIS DATE REGARDING THE VILLAGE OF MADERA GATEWAY PROJECT - COUNCILMEMBER CALHOUN**

Planning and Development Director Yovino advised the Board voted 3-2 to approve the project, stated two Board members were favorable to a joint meeting as requested by Council, and added he asked the Board to not take any final action on the project until a joint meeting was held. Councilmember Ronquillo noted Madera was negotiating for water outside the area which meant there was consensus to go forth and build the project, with Mr. Yovino responding.

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**RECESS - 3:18 P.M. - 5:07 P.M.**

**REQUEST FOR ASSISTANCE AND RESEARCH ON WHETHER COUNCIL CAN JOIN THE AIR BOARD IN SUING THE CARB AND/OR IF THERE IS ANY VALUE IN SUING THE CITY OF SAN FRANCISCO RELATIVE TO THEIR NON-COMPLIANCE WITH REGULATIONS - PRESIDENT PEREA**

Request made.

BY ELLIS ENTERPRISES, FOR A MIXED-USE PROJECT OF COMMERCIAL, OFFICE AND MULTIPLE-FAMILY RESIDENTIAL USES, LOCATED ON THE NORTH SIDE OF E. SHEPHERD FROM E. CHAMPLAIN DRIVE TO N. MAPLE AVENUE (DISTRICT 6)

a. CONSIDER AND ADOPT MITIGATED NEGATIVE DECLARATION FOR ENVIRONMENTAL ASSESSMENT NO. R-01-33, C-01-117, V-01-17

b. **RESOLUTION NO. 2002-99 - APPROVING CONDITIONAL USE PERMIT NO. C-01-117 (STAFF RECOMMENDATION)**

c. **RESOLUTION - APPROVING CONDITIONAL USE PERMIT NO. C-01-117 (PLANNING COMMISSION RECOMMENDATION)**

d. **RESOLUTION NO. 2002-100 - APPROVING VARIANCE APPLICATION NO. V-01-17, AS AMENDED**

e. **BILL NO B-17 - ORDINANCE NO. 2002-16 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM C-1/UGM/CZ, C-P/UGM/CZ AND R-2/UGM/CZ TO C-1/UGM/CZ, C-P/UGM/CZ AND R-2/UGM/CZ (CHANGING ZONE DISTRICT LINES), AS AMENDED, ADDING CONDITIONS**

President Perea announced the time had arrived to consider the issue and opened the hearing.

Planning Manager Beach and Planner Stiglich reviewed the issue and related matters at length including the need to make necessary findings to address city-wide air quality, impacts to the declining quality of air quality, and loss of potential ground water recharge areas; advised the project was consistent with the City's pending general plan update, current plan, current planning policies, and Landscape of Choice; reviewed the history of the mixed use ordinance; advised of market and traffic studies conducted and the two recommendations being presented by the staff and the Planning Commission; and gave an overview of the project along with its chronology (**7 - 0**), and summarized.

Mr. Jordan, representing the Air Board, recommended, if the project is approved, that commercial vehicles be kept off local roads and away from neighborhoods, that a limitation be placed on heavy duty truck idling so as not to impact the apartments, and for the City to move to cleaner fuel for refuse trucks.

The applicant presentation was made by Scott Ellis, Jr., Ellis Enterprises, who introduced his team and reviewed the project including its history, studies conducted, meetings held with the neighborhoods, displayed a rendering of the project, spoke to the supermarket issue, and requested Council approve staff's recommendation; Fran Doos, 261 E. Braddock Drive, who spoke to the project being the Landscape of Choice and submitted a petition containing 156 signatures in support of the project, on file in the office of the City Clerk; Georgiena Vivian, Vice President, VRPA Technologies, 4746 E. Jennifer, who spoke at length to the traffic study conducted, using a map to illustrate; and Bob Reicher, Principal, Market Profiles, Costa Mesa, CA, who spoke to the market analysis conducted (**8 - 0**).

Speaking in support of the project and/or expressing specific concerns with the project (primarily safety/traffic impacts, building height, and/or opposition to the supermarket were: Lee Horwitz, 160 E. Bullard, support; Jerri Faria, 290 W. Birch, Clovis, support; Leland Scott, 5665 N. First, support; Jeff Lauritzen, 1418 E. Sweetbriar, concerns; Michael Friend, 8828 N. Meridian, concerns; Scott Vincent, 9360 N. St. Martin, concerns; Jim Watt, Save Mart Supermarkets, Modesto, who submitted into the record letters from Richard Domanski of Thompson Associates, and

into the record, on file in the City Clerk's office; Brett Anderson, 1792 E. Pryor, concerns; Tom Graves, 9339 N. Valley Green, Vice President, The Dominion Homeowners Association, who referenced for the record a letter from the Dominion Homeowners Association dated October 4, 2001, protesting the project and requesting an EIR; and Chris Hamilton, 1370 E. St. James, concerns.

Continued speakers were: Craig Kunzuer, 1377 E. St. James Circle, concerns; Patrick Ellis, 9255 N. Valley Green Drive, support; Patience Milrod, 844 N. Van Ness, support **(9 - 0)**, Vince Correll, 840 E. Cole, representing the Woodward Park Homeowners Association, concerns; Floyd Boler, 9069 N. Woodbridge, concerns; Frank Scarborough, 9295 N. Valley Green, concerns, and who submitted into the record copies of letters to Mr. Beach and Mr. Stiglich from Caltrans requesting copies of the traffic studies conducted stating they had not been sent to Caltrans for their review or comment; Richard Matoian, 1383 E. Valley Forge Drive, concerns; Kathy Shannon, President, Liberty Elementary Parents Club, 9329 N. Valley Green Drive, concerns; Pat Mills, 9331 N. Archie, concerns; Robert Wooley, 9359 N. Valley Green, concerns; Adelle Graves, 9339 N. Valley Green, concerns; Diane Niehaus, 9349 N. Valley Green, concerns; John Shelton, 9426 N. Archie, concerns; Joseph Garabedian, 9282 N. Valley Green, concerns; Andy Griffin, 9277 N. Valley Green, concerns; Robert Flay, 9268 N. Valley Green, concerns; Bonnie Scarborough, 9295 N. Valley Green, concerns; Bob Niehaus, 9349 N. Valley Green, concerns; Phil Souza, 9348 N. St., Martin, concerns **(10 - 0)**, Peggy Bos, 55 W. Bullard #297, Clovis, support; and Charley Clouse, TPG Consulting, 470 E. Herndon, retained by area neighborhoods, who spoke to residential traffic options.

Upon call, no one else wished to be heard and President Perea closed the public hearing.

#### **RECESS - 7:52 P.M. - 8:04 P.M. RECESS**

Councilmember Duncan thanked the area residents for their input, staff for their time and professionalism, and Mr. Ellis for the project, and upon his request Planning and Development Director Yovino and Chief Transportation Engineer Madewell clarified issues and responded to concerns expressed including, but not limited to, Valley Green and Archie access, the proposed supermarket, market studies conducted, Council's prior direction to staff to make the Landscape of Choice work as best as they could, need for higher densities, the variance process and findings, and Hickory Hill, Shepherd, Champlain and Archie traffic issues including access points and vehicle trips.

Mr. Madewell and City Attorney Montoy responded at length to questions and/or comments of Councilmember Duncan and/or clarified issues relative to no commercial traffic on Hickory Hill, posted "No Parking" on Hickory Hill and Greenwich, "mixed-use" term and the challenge to integrate the city's new direction with existing neighborhoods, concerns about Valley Green and Archie traffic impacts, proposed crash gates, the 3-story building height issue and concerns being resolved by grading, the supermarket being critical to the overall success of the project and competition/choice being good for the consumer, and the variances including process and necessary findings to be made.

Councilmember Duncan reiterated this was a new direction and a new way of doing things for the City of Fresno, stated the city had real severe air quality and sprawl problems and the Mayor and Council was serious about resolving and addressing those problems and creating a better environment with green space, and made a motion to

approve staff's recommendation, with the Variance resolution (Item "d") being conditioned upon written findings being brought back to Council, and the Ordinance Bill (Item "e") being conditioned upon (1) no direct access from this development to Greenwich Avenue, (2) the 3-story building on the northwest part of the property be depressed so it appears to be no higher than a 2-story building from the finished grade of Greenwich Avenue, and (3) the straight

extension of Chance Avenue as a public street be made available for all public uses to the Bethany Church property and includes the official recording of the street as a permanent easement, which motion was seconded and subsequently modified and later acted upon.

Extensive discussion ensued with Mr. Beach, Councilmember Duncan, Mr. Yovino, Mr. Reicher, Ms. Vivian, Mr. Watt, Ms. Montoy, Mr. Madewell and Mr. Ellis clarifying issues and/or responding to questions, comments and/or concerns of Councilmembers Castillo, Ronquillo, Boyajian, President Perea and Councilmember Duncan relative to the landscaping on the north end of the project including proximity of the wrought iron fence to the sidewalk or edge of the street, residents' concerns with the 30-foot towers and signs, location of loading docks for commercial access, number of pedestrian access points from the apartments to the retail project on the north end, if there were adequate sidewalks/pathways for the southeast apartment complex to the project, the three stop signs on Hickory Hill and whether they met warrants for installation, if staff looked into the possibility of removing those stop signs for better traffic flow, timeframe for the study to remove the stop signs and cost, request for clarification on Chance Avenue in the motion, and comments by Councilmember Ronquillo relative to (1) people wanting to live in certain areas, (2) the new direction and challenge, and (3) sidewalk and traffic issues. Questioning continued relative to zoning for the grocery store, if businesses are aware of zoning/uses for nearby areas when they locate in an area (**11 - 0**), the issue of continuity/stability and what people are told when plans are changed/amended, if Mr. Reicher conducted the study on the Herndon/Brawley supermarket, Mr. Reicher's expertise, if Mr. Reicher was aware of other supermarkets planned, if some supermarkets were built to put others out of business, traffic impacts and analysis based on current and future zoning, Mr. Watt's knowledge about Ralph's Clovis store failing, if Mr. Watt felt eight stores in the area could succeed, if Save Mart's decision to locate in an area is based on current zoning, other possible areas for supermarkets, if the motion mitigates safety/traffic issues, need to re-circulate the negative declaration for public comment due to the condition in the motion of no access on Greenwich being a new added measure, options of crash gates and closing off Valley Green Drive, options for Archie Avenue relative to keeping vehicles trips where they are supposed to be and not through residential (with Mr. Madewell explaining design-type techniques), timeframe to re-circulate the negative declaration, and discussion on another option of separating access from the commercial/office on to Greenwich and allowing just residential access to Greenwich with concrete treatment and if Mr. Ellis supported that option.

Councilmember Duncan modified his motion to change condition No. 1 to the Ordinance Bill to provide for a crash gate on Valley Green at Greenwich, "no right-turn" barriers onto Archie, no commercial/office access on Greenwich, and access allowed only to the residential component.

Brief discussion ensued and/or questions were presented relative to on the stop signs on Hickory Hill, Councilmember Quintero commented on the limited access due to the Butler/Peach diverter in his district and cautioned and asked residents to think about the need for public safety services, clarification on the depressed height condition in the motion, if the subject area was impacted by gravel trucks, posting for no commercial vehicles on Hickory Hill and near the school, negative school impacts, Liberty School capacity, how crash gates would or would not work, and mixed use developments being the challenge if the City is to accommodate 300,000 more people without expanding the boundaries, with Councilmember Duncan, Mr. Beach and area residents responding to questions and commenting.

On motion of Councilmember Duncan, seconded by Acting President Castillo, duly carried, RESOLVED, the Mitigated Negative Declaration prepared for this project hereby approved; the above entitled Resolution No. 2002-99 approving Conditional Use Permit No. C-01-117 (Staff's recommendation) hereby adopted; the above entitled Resolution No. 2002-100 approving Variance No. V-01-17 hereby adopted, as amended, and conditioned upon written

findings being brought back to Council, and the above entitled Bill No. B-17 adopted as Ordinance No. 2002-16, as amended, adding the following conditions: (1) provide for a crash gate on Valley Green at Greenwich, “no right-turn” barriers onto Archie, no commercial/office access on Greenwich, and access allowed only to the residential component, (2) the 3-story building on the northwest part of the property be depressed so it appears to be no higher than a 2-story building from the finished grade of Greenwich Avenue, and (3) the straight extension of Chance Avenue as a public street be made available for all public uses to the Bethany Church property and including the official recording of the street as a permanent easement, by the following vote:

|        |   |   |
|--------|---|---|
| Ayes   | : | Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea |
| Noes   | : | Boyajian  |
| Absent | : | None  |

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### **ADJOURNMENT**

There being no further business to bring before the Council, the hour of 9:38 p.m. having arrived and hearing no objections, President Perea declared the meeting adjourned.

**APPROVED** on the 26<sup>th</sup> day of March, 2002.

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| Henry Perea, Council President | ATTEST: Yolanda Salazar, Assistant City Clerk |